IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 302 OF 2007

1. Shri Narayanlal Uderam Sharma, since deceased by LRs:
1A.Kamalabai Narayan Sharma & Ors. .. Applicants.

V/s.

Ms. Julie Danial Lucas .. Respondent.

Mr. Jaydeep S.Deo for the Applicants.

Mr. A.V.Buskute i/by S.B.Deshmukh for the Respondent.

CORAM : S. A. BOBDE, J.

DATED : 06th SEPTEMBER, 2007.

P.C. :-

. This civil revision application is by a tenant against concurrent findings of the courts below that the respondent is entitled to possession of the premises on the ground of bonafide need.

2. The trial court had decreed the suit on the ground of arrears of rent and bonafide need. The appellate court has maintained the decree only on the ground of bonafide need.

3. The premises in question are one room of 10" x 10" and another room, which is used as a shop, is also

of the same measurements. The courts below have accepted the respondent's need for possession of the aforesaid rooms on the ground that she wants to reside in the said premises and start a beauty parlour. The respondent landlady has been found to be going from door to door for the purpose of giving the beauty treatment to her clients. The learned counsel for the applicants submitted that there was a material irregularity in accepting the bonafide need of the respondent. According to the learned counsel such a need could have never been considered as a bonafide need because before the suit was filed, the landlady had sold identical premises. According to the learned counsel, the landlady could have very well occupied those premises instead of selling them and suing the applicants for eviction. In the facts and circumstances of this case, this argument is not acceptable. It is found by the courts that the said premises were sold to the tenant because of the financial need of the respondent landlady. There is some dispute on behalf of the applicants that both the premises were not occupied by the tenant. However, what is germane, is that the landlady needed to sell the premises for raising finance. In such a situation, it is not possible to accept the argument that because certain premises were sold prior to the institution of the suit, the need is

not bonafide.

4. The learned counsel for the applicants also relied on a judgment of the single Judge of this court in **Shrirang Dharamraj Kale & Anr. vs. Najmunissa a Rahimbee Shaikh A. Rahiman Saheb & Ors, reported in 2003(2) Bom C.R. 621.** The facts of the said case are different. There the premises were let out to some other tenant before the suit for eviction was filed by the landlord. There is an appreciable difference between the landlord being compelled to sell the premises on account of financial difficulty and a landlord letting out the premises. In the circumstances, there is no reason to interfere with the concurrent findings of both the courts below that the respondent needs that premises for bonafide occupation.

5. The learned counsel for the applicants states that the applicant will file an usual undertaking within a period of two weeks to vacate the premises after six months from today and therefore, the decree may not be executed. In the circumstances, upon the applicants filing such an undertaking within two weeks from today, the respondent shall not execute the decree for a period of six months from today.

6. The civil revision application is dismissed with

the aforesaid direction.

(S.A.BOBDE,J.)

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